

**RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 1614**

Attorney Docket No. 5573-124

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Whittle et al.
Serial No.: 09/648,490
Filed: August 25, 2000
For: *FT-Raman Spectroscopic Measurement*

Confirmation No.: 5616
Group Art Unit: 1614
Examiner: Kwon

Date: February 18, 2005

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER UNDER 37 C.F.R. 1.321(a)

Sirs:

I, Jarett K. Abramson, am an attorney of record of the disclaimant, aaiPharma, Inc., and am authorized to execute this disclaimer on behalf of aaiPharma, Inc. The disclaimant, aaiPharma, Inc., having a principal place of business at 2320 Scientific Park Drive, Wilmington, NC 28405, is the owner of all right, title, and interest in the above-identified application by Assignment, a copy of Assignment as filed is enclosed.

The disclaimant hereby disclaims, except as provided below, the terminal part of any patent granted on the above-identified application that would extend beyond the expiration date of the full statutory term as defined in 35 U.S.C. §§154 - 156, §173, and any other relevant statutory provision of prior U.S. Patent No. 6,262,086, for claims 9-16, issued July 17, 2001, as presently shortened by any terminal disclaimer, which patent was assigned to the above-identified disclaimant by an Assignment recorded on July 20, 2001, at Reel 11995, Frame 115; U.S. Patent No. 6,268,385, for claims 1-5, issued July 31, 2001, as presently shortened by any terminal disclaimer, which patent was assigned to the above-identified disclaimant by an Assignment recorded on August 3, 2001, at Reel 12047, Frame 778; U.S. Patent No. 6,369,087, for claims 19-29, issued April 9, 2002, as presently shortened by any terminal disclaimer, which patent was assigned to the above-identified disclaimant by an Assignment recorded on September 7, 2001, at Reel 12153, Frame 105; U.S. Patent No. 6,653,329, for claims 1-30, issued November 25, 2003, as presently shortened by any terminal disclaimer, which patent was assigned to the above-identified disclaimant by an Assignment recorded on February 3, 2004, at Reel 14301, Frame 184; and U.S. Patent No. 6,667,324, for claims 1-4, issued December 23, 2003, as

In re: Whittle et al.
Serial No.: 09/948,490
Filed: August 25, 2000
Page 2

presently shortened by any terminal disclaimer, which patent was assigned to the above-identified disclaimant by an Assignment recorded on February 3, 2004, at Reel 14301, Frame 184.

Disclaimant further agrees that any patent so granted on the above-identified application, which is the subject of this disclaimer, shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Nos. 6,369,087, 6,268,385, 6,262,086, 6,653,329, and 6,667,324. This agreement runs with any patent granted on the above-identified application, and is binding upon the grantee, its successors, or assigns.

Nothing herein shall be construed as a disclaimer of any terminal part of any patent granted on the above-identified application that is prior to the expiration date of the full statutory term as defined in 35 U.S.C. §§154 - 156 and §173 of U.S. Patent No. 6,369,087, 6,268,385, 6,262,086, 6,653,329, and 6,667,324 as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer.

Respectfully submitted,


Jarett K. Abramson
Registration No. 47,376

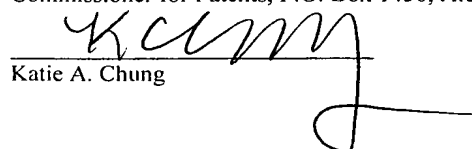
Myers Bigel Sibley & Sajovec, P.A.
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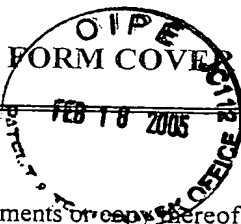
Date of Deposit: February 18, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Katie A. Chung

ASSIGNMENT RECORDATION FORM COVER SHEET

Patents Only



To: Commissioner for Patents:

Date: February 18, 2005
Attorney Docket No. 5573-124

Please record the attached original documents or ~~copy~~ **copy** thereof.

1. Name of conveying party(ies):

[A] Robert R. Whittle
[B] Frederick D. Sancilio
[C] Grayson Walker Stowell

2. Name and address of receiving party(ies):

aaiPharma Inc.
2320 Scientific Park Drive
Wilmington, NC 28405

COPY

Additional name(s) of conveying party(ies) attached? Yes ☒ No

3. Nature of conveyance:

☒ Assignment
☐ Merger
☐ Security Agreement
☐ Change of Name
☐ Other

Additional name(s) & address(es) attached? Yes ☒ No

Execution Date: [A] January 21, 2005 [B] January 27, 2005
[C] January 21, 2005

4. Application Serial No. 09/648,490; Filed: August 25, 2000

If this document is being filed together with a new application, the execution date of the application is: _____

Additional numbers attached? Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Jarett K. Abramson
Myers Bigel Sibley & Sajovec
P. O. Box 37428
Raleigh NC 27627

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41) \$40.00
☐ Enclosed
☒ Authorized to be charged to deposit account

8. Deposit account number: 50-0220

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9. Statement and signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Jarett K. Abramson Reg. No. 47,376

Name of Person Signing

Signature

February 18, 2005

Date

Total number of pages including cover sheet, attachments and document: 5

CERTIFICATION OF FACSIMILE TRANSMISSION UNDER 37 CFR § 1.8

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office via facsimile number 703-306-5995 on February 18, 2005.

Katie A. Chung

ASSIGNMENT

THIS ASSIGNMENT, made by us, **Robert R. Whittle**, a citizen of the United States of America, residing at 5006 Pine Needles Drive, Wilmington, North Carolina 28403; **Frederick D. Sancilio**, a citizen of the United States of America, residing at 5395 Pennock Point Road, Jupiter, Florida 33458; and **Grayson Walker Stowell**, a citizen of the United States of America, residing at, 1409 Brookstone Gardens Drive, Wilmington, North Carolina 28411;

WITNESSETH: That,

WHEREAS, we are joint inventors of certain new and useful improvements in "FT-RAMAN SPECTROSCOPIC MEASUREMENT" for which U.S. Application No. 09/648,490 was filed on August 25, 2000 in the United States Patent and Trademark Office; and

WHEREAS, aaiPharma Inc., a North Carolina corporation having a principal place of business at 2320 Scientific Park Drive, Wilmington, State of North Carolina 28405, hereinafter referred to as assignee, is desirous of acquiring the entire right, title and interest in and to said invention as described in said application, and in and to any and all Letters Patent which shall be granted therefor in the United States of America and all foreign countries;

NOW, THEREFORE, To Whom It May Concern, be it known that for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, we have sold and by these presents do hereby sell, assign, transfer, and convey unto the said assignee, its successors and assigns, the entire right, title, and interest in and to the said invention and application, and in and to any and all continuations, continuations-in-part, or divisions thereof, and in and to any and all Letters Patent of the United States of America and all foreign countries or reissues or other forms of protection thereof which may be granted therefor or thereon, for the full end of the term for which said Letters Patent may be granted along with any term extensions thereon or therefor, together with the right to claim the priority of said application in all foreign countries in accordance with the International Convention, the same to be held and enjoyed by said assignee, its successors and assigns, as fully and entirely as the same would have been held and enjoyed by us if this assignment and sale had not been made.

We hereby request that said Letters Patent be issued in accordance with this assignment.

We further covenant and agree that, at the time of the execution and delivery of these presents, we possess full title to the invention and application above-mentioned, and that we have the unencumbered right and authority to make this assignment.

We further covenant and agree to promptly communicate to said assignee or its representatives any facts known to us relating to said invention, to testify in any interference or legal proceedings involving said invention, to execute any additional papers which may be requested to confirm the right of the assignee, its representatives, successors, or assigns to secure patent or similar protection for the said invention in all countries and to vest in the assignee complete title to the said invention and Letters Patent, without further compensation, but at the expense of said assignee, its successors, assigns, and other legal representatives; and we hereby instruct, and further covenant and agree to bind our heirs, legal representatives, and assigns, to do same, without further compensation, but at the expense of said assignee or its representatives.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this 21st day of JANUARY, 2005.


Robert R. Whittle

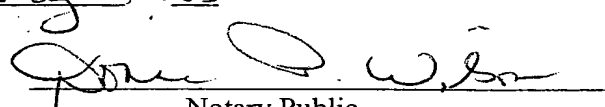
(SEAL)

STATE OF NORTH CAROLINA)

COUNTY OF New Hanover)

ss:

Before me personally appeared the persons described in and who executed the foregoing instrument, and they acknowledged to me that they executed the same for the purposes therein stated, this 21st day of January, 2005.


Notary Public

SEAL

My Commission Expires:

June 28, 2006

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this 27th day
of JAN., 2005.



Frederick D. Sancilio

(SEAL)

STATE OF FLORIDA)

COUNTY OF) ss:

PAIM BEH

Before me personally appeared the persons described in and who executed the foregoing
instrument, and they acknowledged to me that they executed the same for the purposes therein
stated, this 27 day of JANUARY, 2005.




Marinda A. Waters
My Commission DD308489
Expires April 07, 2008

Notary Public

SEAL

My Commission Expires: APRIL 7, 2008

IN WITNESS WHEREOF; we have hereunto set our hands and seals on this 21st day
of January, 2005



Grayson Walker Stowell (SEAL)

STATE OF NORTH CAROLINA)
COUNTY OF New Hanover) ss:

Before me personally appeared the persons described in and who executed the foregoing
instrument, and they acknowledged to me that they executed the same for the purposes therein
stated, this 21st day of January, 2005.



Notary Public

SEAL

My Commission Expires: June 28, 2006